The Examiner suggests rewriting claim 1 in Markush format to clarify the claimed elements. The Examiner appears to be referring to the recitation of "comprising component (A) ... or component (B)..."

In response, Applicants note that MPEP 2173.05(h)(II) indicates that the use of the alternative conjunction "or" is acceptable. Moreover, given that there are only two alternatives recited, (A) or (B), Applicants submit that the suggested Markush format would not simplify the wording of the claim.

Applicants also note that the Examiner's proposed amendment changes "comprising" to "material which is..." Applicants submit that the transitional phrase "comprising" is not indefinite.

With regard to claim 1, line 5, the Examiner suggests the deletion: "the crystal lamellas ~~of the polyolefin~~". However, Applicants note that this amendment would leave no antecedent basis for "the crystal lamellas". The current wording is not indefinite because it refers to the polyolefin, which can inherently have crystal lamellas.

The claims have therefore not been amended. Reconsideration of the rejection is respectfully requested.

Rejections under 35 U.S.C. 103(a)

Claims 1-2, 7, 9-10 and 27-29 are rejected under 35 USC §103(a) as being unpatentable over Kono et al. (U.S. Patent No. 4,588,633).

Applicants respectfully disagree with the Examiner's rejection of claims 1-2, 7, 9-10 and 27-29, and therefore traverse it. Reconsideration of the rejection is respectfully requested.

In response to this rejection in the final Office action of December 24, 2003, Applicants argued in the Response under 37 CFR §1.116 dated March 24, 2003 that the first Declaration under 37 CFR §1.132 (Exhibit A) demonstrated that the timely thermal setting had an unexpected effect on the air permeability of the membrane, and that the membranes of the present invention were not achievable by the prior art methods.

The Examiner addresses Applicants' arguments on page 3 of the Office action, stating, "the Examiner notes that the prior art combination encompasses and renders obvious the instant claimed invention" (page 3, lines 7-8). The Examiner refers specifically to the disclosure of air permeability in Takita '583, although that reference is not cited in the present rejection.

The Examiner also states that the "timely thermal setting" is not recited in claim 1. In response, Applicants note that the argument was not that the "timely thermal setting" was in itself a claim limitation, rather, Applicants argued that the **recited structural limitations** distinguished from the prior art. The argument regarding "timely thermal limitation" was that **the prior art method, which did not have "timely thermal setting", could not achieve these limitations**.

In the Response dated March 24, 2002, Applicants also presented the second Declaration under 37 CFR §1.132 (Exhibit B) regarding the limitation on the angle of the crystal lamellas. Although this was directed primarily at the Takita reference, Applicants also noted that there was no basis for concluding that the recited limitations would be inherent in Kono et al.

Applicants continue to submit that Exhibit A, the first Declaration under 37 CFR §1.132 presented on March 24, 2003, demonstrates that the membranes of the present invention are not achievable by the prior methods and are not suggested by the prior art. Therefore, Applicants

respectfully disagree with the Examiner's contention that "the prior art combination encompasses and renders obvious the instant claimed invention".

On page 3, last paragraph of the Office Action, the Examiner addresses Exhibit B, the second Declaration under 37 CFR §1.132 presented in the amendment of March 24, 2003, regarding the direction of crystal lamellas in Takita et al. '183. The Examiner states that "Applicants' argument appears persuasive. The Examiner repeats that, "Applicants are strongly urged to further clarify the unexpected directivity of lamellas and its relations to the "timely thermal setting", and also Applicants might further wish to clarify what "direction" constitutes the "mechanical direction" in claim 1."

Applicants note again that Exhibit B was directed in particular to the teachings of Takita et al. '183, demonstrating that the directivity of the lamellas to the direction perpendicular to the membrane is lower than 40% and therefore does not meet the limitation of claim 1. However, Applicants note that Kono et al. also does not disclose or suggest any values of this parameter, and Applicants submit that, based on Exhibit B, there is no basis in fact or technical reasoning for concluding that the claimed values would be inherent in Kono et al. If the Examiner considers this argument persuasive, then Applicants submit that they have demonstrated that claim 1 recites a limitation not taught or suggested by Kono et al., and on this basis alone the claims are non-obvious over Kono et al.

With regard to the Examiner's request for clarification of the term "mechanical direction", Applicants note that this is a term well known in the art, and is also known as "machine direction".

Applicants therefore submit that claims 1-2, 7, 9-10 and 27-29 are novel and non-obvious over Kono et al. (U.S. Patent No. 4,588,633).

Claims 3-6 are rejected under 36 USC §103(a) as being unpatentable over Kono et al. (U.S. Patent No. 4,588,633)either individually or in view of Takita et al. (U.S. Patent No. 5,501,183). (Office action paragraph no. 6)

Applicants respectfully disagree with the Examiner's rejection of claims 3-6, and therefore traverse it. Reconsideration of the rejection is respectfully requested.

As noted above, in the Response dated March 24, 2003, Applicants presented the second Declaration under 37 CFR §1.132 (Exhibit B) regarding the limitation on the angle of the crystal lamellas, arguing that this distinguished from Takita et al.

As noted above, the Examiner has addressed these arguments starting at the bottom of page 3 of the present Office action, indicating that, "Applicants' argument appears persuasive."

Again, Applicants submit that the data in Exhibit B adequately demonstrated that Takita et al. does not inherently disclose and does not suggest the limitation of claim 1 on the angles of the crystal lamellas of the polyolefin. As discussed above, Applicants also submit that this limitation is not taught or suggested by Kono et al. Applicants assert that on this basis alone, no *prima facie* case of obviousness can be made for claims 3-6 using these references.

Because the prior art references fail to enable the making of a microporous polyolefin membrane having the limitation of the present claims, Applicants assert that the claims are novel and non-obvious over Kono et al. and Takita et al., taken separately or in combination.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that that the claim, as herein amended, is in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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